HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.12318 of 2000

Date: 22.08.2007

Between:

Pasam Vana Venkata Sankara Babu and another

....Petitioners

and

The Special Cadre Deputy Registrar/
Officer on Special Duty, Krishna District
Cooperative Central Bank Limited and others

....Respondents

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O R D E R:

The petitioners are the sons of the 3rd respondent. An extent of Ac.3.50 cents of land in Sy.Nos.446/6 and 7 of Chilakalapudi Village, Bandar Mandal, Krishna District was purchased, at a time when the petitioners were minors.

The 3rd respondent obtained loan from the 2nd respondent-Society by mortgaging the land in the above-said survey numbers. Since she did not repay the loan, the 2nd respondent approached the 1st respondent and obtained a recovery certificate. Execution proceedings were initiated for recovery of a sum of Rs.95,289/- against the 3rd respondent. The land referred to above was brought to sale in the execution proceedings before the 1st respondent, on 31.12.1998. The petitioners and the 3rd respondent filed objection/claim petition under Rule 52 of the A.P. Co-operative Societies Rules, before the 1st respondent.

Several grounds were urged for setting aside the sale. Through his order dated 22.10.1999, the 1st respondent rejected the application of the petitioners. Thereafter, he confirmed the sale by orders dated 31.10.1999. This writ petition is filed challenging the said

proceedings.

The petitioners contend that though they are co-owners of the property, they have not been put on notice and that the sale conducted by the 1st respondent is contrary to several mandatory provisions of the A.P. Cooperative Societies Act, and Rules made thereunder.

The respondents 1 and 2 filed separate counter affidavits. It is stated that the petitioners are co-executants of the mortgage deed and they are not entitled to raise any objection. It is also stated that the procedure prescribed by law was meticulously followed.

Heard Sri Kowturu Vinay Kumar, the learned counsel for the petitioners, the learned Government Pleader for Cooperation, the learned Standing Counsel for the 1st respondent and Sri K. Rajanna, the learned counsel for the 3rd respondent and Sri Venkata Rangadas Kanuri, the learned counsel for the 4th respondent.

The fact that the 3rd respondent obtained loan from the 2nd respondent by mortgaging the property referred to above is not disputed. Since there was default on the part of the 3rd respondent, proceedings were initiated under the said Act for recovery of the amount. The mortgaged property was put to sale. Rule 52 of the Rules is almost akin to Rule 58 of Order 21 of the Code of Civil Procedure. It is only the third parties that can avail the remedy thereunder.

The record discloses that the petitioners joined their mother-the 3rd respondent in execution of the mortgage deed. Therefore, they cannot be treated as third parties. Even otherwise, no material defect is pointed out in the execution proceedings. The 1st respondent has undertaken extensive discussion on each and every plea raised by the petitioner and rejected their claim.

This court is not convinced to take any different view.

The writ petition is dismissed. There shall be no order as to costs.

L.NARASIMHA REDDY, J

22nd August, 2007.
cvm